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DALE F. REGELMAN CHANDLER & UDALL, LLP 4801 E. BROADWAY BLVD #400 TUCSON, AZ 85711-3609			EXAMINER PRAKASAM, RAMYA G	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/674,298
Filing Date: September 29, 2003
Appellant(s): COLVIG ET AL.

NOV 20 2007

GROUP 3600

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EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/13/2007 appealing from the Office action mailed 2/6/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0062167	DIMITRI et al.	5-2002
6,799,084	GROBLER	9-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. Claims 1, 3-4, 6, 8-9, 11, 13, 15-16, 18, 20-21, 23, 25, 27-28, 30, 32-33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plutt (U.S. Patent No. 6,591,164) in view of Dimitri (U.S. Patent Application Publication No. 2002/0062167)

Plutt discloses a method to provide selectable redundant accessor availability in a data storage and retrieval system, comprising the steps of:

- ☐ Providing a data storage and retrieval system (100) comprising one or more data storage devices (103) and an accessor (121-126), wherein said accessor comprises a first gripper and a second gripper (102, See Figure 1);
- ☐ Operating said first gripper (See Column 3, lines 32-35);
- ☐ Requesting use of said second gripper (See Column 4, lines 9-14);
- ☐ Determining if use of said second gripper is authorized (See Column 4, lines 40-45);
- ☐ If use of said second gripper is authorized, operating said second gripper (See Column 4, lines 43-45).

Plutt further discloses a method to provide selectable redundant accessor availability in a data storage and retrieval system, comprising the steps of:

- Providing a data storage and retrieval system (100) comprising one or more data storage devices(103), a first accessor (102), and a second accessor (See Figure 1);
- Operating said first accessor but not said second accessor (See Column 4, lines 9-14);
- Requesting use of said second accessor (See Column 4, lines 40-67);
- Determining if use of said second accessor is authorized (See Column 4, lines 40-45);
- If use of said second accessor is authorized, operating said second accessor (See Column 4, lines 43-45).
- Wherein said data storage and retrieval system further comprises at least one of software and firmware to operate said first accessor and said second accessor (See Column 4, lines 25-27).
- Wherein said requesting step comprises requesting use of said second accessor for cold-standby availability (See Column 4, lines 43-45), and wherein said determining step comprises determining if use of said second accessor is authorized for cold-standby availability (See Column 4, lines 9-14), and wherein said operating step comprises operating said second accessor for cold-standby availability if use of said second accessor is authorized for cold-standby accessor availability (See Column 4, lines 43-45).
- Wherein said requesting step comprises requesting use of said second accessor for hot-standby availability (See Column 4, lines 43-45), and wherein said determining step comprises determining if use of said second accessor is authorized for hot-standby availability (See Column 4, lines 9-14), and wherein said operating step comprises operating said second accessor for hot-standby availability if use of said

second accessor is authorized for hot-standby availability (See Column 4, lines 43-45).

- Monitoring the operation of said first accessor (See Column 3, lines 32-35);
- If a failure of said first accessor is detected, operating said second accessor (See Column 4, lines 63-65).
- Wherein said requesting step comprises requesting use of said second accessor for dual-active accessor availability (See Column 4, lines 9-14), and wherein said determining step comprises determining if use of said second accessor is authorized for dual-active accessor availability (See Column 4, lines 40-67), and wherein said operating step comprises operating said second accessor and said first accessor simultaneously if use of said second accessor is authorized for dual-active accessor availability (See Column 4, lines 55-67).

Plutt also discloses an article of manufacture comprising one or more data storage devices (100) and an accessor (121-126) comprising

- a first gripper (200, Column 3, lines 30-40) and
- a second gripper (401, Column 3, line 66), and a computer useable medium having computer readable program code disposed therein to provide selectable redundant accessor availability (See Column 4, lines 40-67), the computer readable program code comprising a series of computer readable program steps to effect:
 - Operating said first gripper (See Column 3, lines 32-35);
 - Receiving a request to use said second gripper (See Column 4, lines 9-14);

- Determining if use of said second gripper is authorized (See Column 4, lines 40-45);
- If use of said second gripper is authorized, operating said second gripper (See Column 4, lines 43-45).

Plutt further discloses an article of manufacture comprising:

- one or more data storage devices (100)
- a first accessor (200, Column 3, lines 30-40),
- a second accessor (401, Column 3, line 66), and
- a computer useable medium having computer readable program code disposed therein to provide selectable redundant accessor availability, the computer readable program code (See Column 4, lines 40-67) comprising a series of computer readable program steps to effect:
 - Operating said first accessor but not said second accessor (See Column 3, lines 32-35);
 - Receiving a request to use said second accessor (See Column 4, lines 9-14);
 - Determining if use of said second accessor is authorized (See Column 4, lines 40-45);
 - If use of said second accessor is authorized, operating said second accessor (See Column 4, lines 43-45).
- At least one of software and firmware to operate said first accessor and said second accessor (See Column 4, lines 25-27).

- A series of computer readable program steps to receive a request for cold-standby availability for said second accessor (See Column 4, lines 43-45), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises a series of computer readable program steps to determine if use of said second accessor is authorized for cold-standby availability (See Column 4, lines 9-14), and wherein said computer readable program code to operate said second accessor comprises a series of computer readable program steps to operate said second accessor for cold-standby availability if use of said second accessor is authorized for cold-standby availability (See Column 4, lines 43-45).
- Wherein said computer readable program code to receive a request to use said second accessor comprises a series of computer readable program steps to receive a request for hot-standby availability for said second accessor (See Column 4, lines 43-45), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises a series of computer readable a series of computer readable program steps to determine if use of said second accessor is authorized for hot-standby availability (See Column 4, lines 9-14), and wherein said computer readable program code to operate said second accessor comprises a series of computer readable program steps to operate said second accessor for hot-standby availability if use of said second accessor is authorized for hot-standby availability (See Column 4, lines 43-45).
- A series of computer readable program steps to effect:
 - Monitoring the operation of said first accessor (See Column 3, lines 32-35);

- If a failure of said first accessor is detected, operating said second accessor
(See Column 4, lines 63-65).
- Wherein said computer readable program code to receive a request to use said second accessor comprises a series of computer readable program steps to receive a request for dual-active accessor availability (See Column 4, lines 9-14), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises a series of computer readable program steps to determine if dual-active accessor availability is authorized (See Column 4, lines 40-67), and wherein said computer readable program code to operate said second accessor comprises a series of computer readable program steps to simultaneously operate said first accessor and said second accessor if dual-active accessor availability is authorized (See Column 4, lines 55-67).

Plutt further discloses a computer program product (See Column 4, lines 24-26) usable with a programmable computer processor having computer readable program code embodied therein to provide selectable redundant accessor availability in a data storage and retrieval system comprising one or more data storage devices (100) and an accessor (121-126), wherein said accessor comprises a first gripper (201) and a second gripper, comprises (400):

- Computer readable program code which causes said programmable computer processor to operate said first gripper (See Column 3, lines 32-35);
- Computer readable program code which causes said programmable computer processor to receive a request to use said second gripper (See Column 4, lines 9-14);

- ❑ Computer readable program code which causes said programmable computer processor to determine if use of said second gripper is authorized (See Column 4, lines 40-45);
- ❑ Computer readable program code which, if use of said second gripper is authorized, causes said programmable computer processor to operate said second gripper (See Column 4, lines 43-45).

Plutt also discloses a computer program product (See Column 4, lines 24-26) usable with a usable with a programmable computer processor having computer readable program code embodied therein to provide selectable redundant accessor availability in a data storage and retrieval system comprising one or more data storage devices (100), a first accessor (201), and a second accessor (400), comprising:

- ❑ Computer readable program code which causes said programmable computer processor to operate said first accessor but not said second accessor (See Column 3, lines 32-35);
- ❑ Computer readable program code which causes said programmable computer processor to receive a request to use said second accessor (See Column 4, lines 9-14);
- ❑ Computer readable program code which causes said programmable computer processor to determine if use of said second accessor is authorized (See Column 4, lines 40-45);
- ❑ Computer readable program code which, if use of said second accessor is authorized, cause said programmable computer processor to operate said second accessor (See Column 4, lines 43-45).

- Wherein said data storage and retrieval system further comprises at least one of software and firmware to operate said first accessor and said second accessor (See Column 4, lines 25-27).
- Wherein said computer readable program code to receive a request to use said second accessor comprises computer readable program code which causes said programmable computer processor to receive a request for cold-standby availability for said second accessor (See Column 4, lines 43-45), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises computer readable program code which causes said programmable computer processor to determine if cold-standby availability for said second accessor is authorized (See Column 4, lines 9-14), and wherein said computer readable program code to operate said second accessor comprises computer readable program code which, if cold-standby availability for said second accessor is authorized, causes said programmable computer processor to operate said second accessor for cold-standby availability (See Column 4, lines 43-45).
- Wherein said computer readable program code to receive a request to use said second accessor comprises computer readable program code which causes said programmable computer processor to receive a request for hot-standby availability for said second accessor (See Column 4, lines 43-45), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises computer readable program code which causes said programmable computer processor to determine if hot-standby availability for said second accessor

is authorized (See Column 4, lines 9-14), and wherein said computer readable program code to operate said second accessor comprises computer readable program code which, if hot-standby availability for said second accessor is authorized, causes said programmable computer processor to operate said second accessor for hot-standby availability (See Column 4, lines 43-45).

- Computer readable program code which, if hot-standby availability for said second accessor is authorized, causes said programmable computer processor to monitor the operation of said first accessor (See Column 3, lines 32-35).
- Computer readable program code which, if a failure of said first accessor is detected, causes said programmable computer processor to operate said second accessor (See Column 4, lines 63-65).
- Wherein said computer readable program code to receive a request to use said second accessor comprises computer readable program code which causes said programmable computer processor to receive a request for dual-active accessor availability (See Column 4, lines 9-14), and wherein said computer readable program code to determine if use of said second accessor is authorized comprises computer readable program code which causes said programmable computer processor to determine if dual-active accessor availability is authorized (See Column 4, lines 40-67), and wherein said computer readable program code to operate said second accessor comprises computer readable program code which, if dual-active accessor availability is authorized, causes said programmable computer processor to

simultaneously operate said first accessor and second accessor (See Column 4, lines 55-67).

Plutt, however, fails to explicitly disclose the use of an accessor with a lifting servo section, such that the first and second gripper are on the lifting servo section. Dimitri discloses the use of an accessor (15 and 16) with a lifting servo section (See Paragraph 42), such that the grippers (25) are on the lifting servo section (See Paragraph 42) for the purpose of moving the gripper vertically to access the cartridges (See Paragraph 42). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Plutt by utilizing an accessor with a lifting servo section, such that the grippers are on the lifting servo section for the purpose of moving the gripper vertically to access the cartridges.

2. Claims 2, 5, 7, 10, 12, 14, 17, 19, 22, 24, 26, 29, 31, 34, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plutt in view of Dimitri and further in view of Grobler (U.S. Patent No. 6,799,084).

Plutt discloses all claimed limitations, except for the use of a software key in order to authorize the use of the second gripper or second accessor. Grobler discloses the use of a software key (See Column 3, lines 3-4) for the purpose of activating and deactivating the data storage and retrieval system from receiving data and/or releasing data (See Column 3, lines 4-7). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Plutt by utilizing a method, apparatus, and computer program product wherein a software key is used for the purpose of activating and deactivation the data storage and retrieval system from receiving data and/or releasing data.

(10) Response to Argument

Applicant argued that Plutt does not teach or suggest a method which uses, or an article of manufacture which comprises, or a computer program product to provide redundant resource availability which uses, an accessor comprising a lifting servo section and a first gripper and a second gripper disposed on that lifting servo section. This argument is not persuasive. An accessor is provided (121-126 – See Figure below) wherein said accessor comprises a first gripper (See Figure below) and a second gripper (See Figure below). Both grippers are disposed on the accessor (See Figure below), and are disposed on a lifting servo section (131-133). Therefore, these limitations are disclosed.

Applicant argues that Plutt does not teach or suggest a method, or an article of manufacture which implements the method, or a computer program product which implements that method, which requests use of the second gripper disposed on the accessor. However, Column 4, lines 33-45 provides that, if it is determined that the second gripper is needed, the control software requests the use, and operates the second gripper, as per the claimed invention. Therefore, this limitation is disclosed.

Applicant argues that Plutt does not teach or suggest a method, or an article of manufacture which implements the method, or a computer program product which implements that method, which determines if use of the second gripper is authorized, however, as stated in Column 4, lines 33-45, the use of the second gripper is determined based on necessity, therefore the use of the second gripper is authorized and the operations mode is changed based on this determination. Therefore, this limitation is also disclosed.

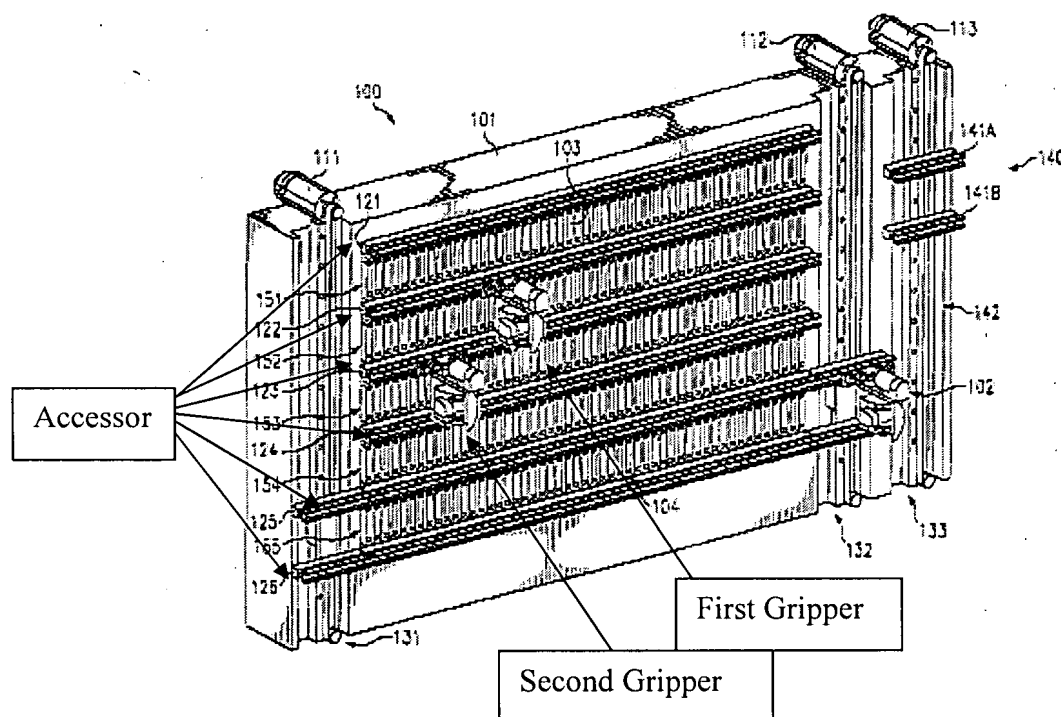
Applicant argues that Plutt does not teach or suggest a method, or an article of manufacture which implements the method, or a computer program product which implements that method, which uses a first accessor comprising a lifting servo section and a first gripper and a second gripper (See Figure 3A and 3B) disposed on that lifting servo section, in combination with a second accessor. This argument is not persuasive. As seen below, there are numerous accessors which provide grippers in order to move tape cartridges between locations. An accessor can be defined as anything that is able to receive an object, therefore, simply changing the terminology does not preclude the fact that the both 121-126 and 104 can be called accessors (they are both provided for the purpose of receiving tape cartridges, and both have grippers and lifting servo sections)

Applicant argues that Plutt does not teach or suggest a method, or an article of manufacture which implements the method, or a computer program product which implements that method, which requests use of the second accessor. However, Column 4, lines 33-45 provides that, if it is determined that the second accessor is needed, the control software requests the use, and operates the second accessor, as per the claimed invention. Therefore, this limitation is disclosed.

Applicant argues that Plutt does not teach or suggest a method, or an article of manufacture which implements the method, or a computer program product which implements that method, which determines if use of the second accessor is authorized, however, as stated in Column 4, lines 33-45, the use of the second accessor is determined based on necessity, therefore the use of the second accessor is authorized and the operations mode is changed based on this determination. Therefore, this limitation is also disclosed.

Applicant argues that Plutt teaches away from the use of a library comprising a first accessor comprising two grippers in combination with a second accessor, wherein the first accessor is operational but the second accessor is not, making a request to use the second accessor, determining if use of the second accessor is authorized, and if use of the second accessor is authorized making that second accessor operational. However, the use of the second accessor, in this case the spare robot, does not occur at all times. Only when the mode is changed, or it is determined that the second accessor is necessary, is the spare accessor utilized (See Column 4, lines 33-45). Therefore, Plutt does not teach away from the use and authorization of the second accessor.

Further, because these limitations are disclosed by Plutt, it would have been obvious to combine these limitations with Dimitri and Grobler for the purposes stated above.



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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ramya Prakasam 11/6/2007

Conferees:

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gc
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SUPERVISOR IN CHARGE